

WQIA for CBE-09-061 1812 Cypress Isle

Staff report for the March 11, 2009, Chesapeake Bay Board public hearing.

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Summary Facts

Applicant	Colgate & Larry Kittelberger
Land Owner	(same)
Location	1812 Cypress Isle, Governor's Land, Williamsburg
Parcel Identification	4321400010
Staff Contact	Patrick Menichino Phone: 259-1443

Project Summary and Description

Colgate & Larry Kittelberger, of 1812 Cypress Isle, Governor's Land, Williamsburg, VA, have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for Resource Protection Area (RPA) impacts associated with the construction of two (2) brick paver walkways totaling approximately 195 linear feet. The brick pavers will be set in gravel and a permeable base resulting in 933 square feet of impervious area. The lot is located adjacent to the James River that requires a 100-foot RPA buffer. The lot is 1.82 acres in size and the RPA buffer encompasses approximately 55% of the lot or 1.00 acres.

A mitigation plan has been provided along with the exception request for your review. The mitigation plan proposes to mitigate for the 933 square feet of impervious area by planting (12) native understory trees and (9) native shrubs, within the RPA buffer to enhance the water quality function of the buffer. This mitigation plan exceeds the standard mitigation requirements of the County.

Staff offers the following guidance to the Board:

1. No additional clearing or removal of vegetation is required for the installation of the (2) brick paver walkways. Previously an administratively exception was granted to allow for sightline clearing in the two areas shown on the plan. Mitigation plantings show on the plan adjacent to the walkways was required to offset for the sight line clearing that previously occurred. The mitigation for the approximate 950 square feet of impervious walkways is shown on left and right sides of the plan noted.
2. Brick paver walkways are considered accessory structures and therefore are not eligible for administrative approval according to the Ordinance. Therefore this exception request for the construction of approximately 195 linear feet of walkways within the 100 RPA buffer must be reviewed by the Board.
3. Staff has evaluated the proposed adverse water quality impacts caused by the proposed walkways and has determined them to be minimal.

Brief History

The lot was recorded after the 1990 adoption of the Chesapeake Bay Preservation Ordinance. There is a 100 foot RPA buffer located on the lot adjacent to the resource. The lot is 1.82 acres in size and the RPA buffer encompasses approximately 55% of the lot or 1.00 acres.

Water Quality Impact Assessment

Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPA. The applicant has submitted a WQIA for this project. The WQIA proposes to mitigate for the impacts to the RPA by planting (12) native understory trees and (9) native shrubs within RPA buffer. The mitigation plan exceeds the typical RPA mitigation requirements of the County.

The owners have submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The Board is to determine whether or not the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the following criteria, as outlined in Section 23-14(c) of the Chesapeake Bay Ordinance:

Recommendations

Staff recommends approval of the exception request for the proposed brick paver walkways the following conditions:

1. Full implementation of the mitigation plan shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c) where installation of the plant material is required prior to the certificate of occupancy or through a form of surety satisfactory to the County Attorney.
2. The size of the native trees shall be 1"-1 ½" caliper, 6"-7' tall and shrubs planted shall be a minimum of 3-5 gallon container size (18" to 36" tall). All vegetation shall be native species approved by the Environmental Division.
3. The brick paver walkways shall not be installed upon the sand beach area or within the area identified on the plan as shoreline maintenance easement. The applicant shall obtain additional approvals of all other regulatory agencies that may have jurisdiction, including a James City County Building Permit.
4. This approval shall become null and void if construction has not begun by March 11, 2010. An extension can be requested in writing at least 2 weeks prior to the expiration date

All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Environmental Division before construction can begin. If the Board grants the exception, the proposed mitigation plan is in accordance with the standard mitigation requirements for impervious surfaces.

Staff Report prepared by: _____
Patrick Menichino

CONCUR: _____
Scott J. Thomas

Attachments: